

COMMISSION COMMUNICATION

CODE OF CONDUCT FOR THE MANAGEMENT OF THE COMBINED NOMENCLATURE
(CN)

(2000/C 150/03)

INTRODUCTION

The 'Communication from the Commission to the Council and the European Parliament: Report on the results of the second phase of SLIM (Simpler legislation for the internal market) and the follow-up of the implementation of the first phase recommendations' includes recommendations by the CN-SLIM team.

Recommendation No 4 in the report of the CN-SLIM team on the simplification and modernisation of the CN used in external trade is to establish a 'code of conduct' for the management of the CN (e.g. with regard to the process for maintaining, creating and deleting CN codes).

Various recommendations made by the CN-SLIM team are appropriate for inclusion in such a code of conduct.

Consequently, the Commission, having heard the views of the Customs Code Committee (Tariff and statistical nomenclature section) and of representatives of European Federations, has established a code of conduct for the management of the CN.

BACKGROUND

History

On 1 January 1988 the Community introduced the concept of the Combined Nomenclature (CN) having the aim of facilitating trade and the collection and exchange of data on the statistics of the external trade of the Community. It resulted from a merger between the nomenclatures of the Common Customs Tariff (the CCT) and the NIMEXE (the Community's statistical nomenclature).

Over the years, a significant number of CN subheadings have enriched the harmonised system, HS nomenclature. Owing to the increase in CN subheadings and the structure of the CN, providers of statistical data have expressed difficulties in determining the correct CN subheading to be used in their statistical declarations.

A decrease in the number of CN subheadings remains one of the measures proposed as part of the SLIM initiative, with the aim of reducing the burdens on European businesses and, in particular, on small and medium-sized enterprises.

Legal framework

According to Article 23 of the Treaty, the Community is based on a customs union involving the use of a Common Customs Tariff (CCT).

Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff⁽¹⁾, provides the legal framework for the Combined Nomenclature (CN). Hence, the CN was established to meet, at the one and the same time, the requirements of both the CCT and of the external trade statistics of the Community.

The CN is based on the nomenclature annexed to the international Convention on the Harmonised Commodity Description and Coding System (HS) issued under the auspices of the World Customs Organisation (WCO), to which the Community is a signatory.

By virtue of Article 21 of Council Regulation (EEC) No 3330/91 of 7 November 1991 on the statistics relating to the trading of goods between Member States⁽²⁾ and Article 8 of Council Regulation (EC) No 1172/95 of 22 May 1995 on the statistics relating to the trading of goods by the Community and its Member States with non-member countries⁽³⁾, the CN is used for the description of goods in the statistical data medium to be transmitted to the competent statistical departments in Member States. Hence, the CN constitutes one of the main elements of Intrastat declarations made by economic operators within the framework of intra-Community trade. Furthermore, statistics on external trade and on intra-Community trade that are disseminated to the public are based on the CN.

Article 20 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code⁽⁴⁾, confirms that the CCT comprises the CN. In accordance with Annexes 37 and 38 to Commission Regulation (EEC) No 2454/93⁽⁵⁾ implementing that Regulation, the CN code constitutes one of the essential elements in the single administrative document submitted to customs by economic operators and used by customs in their monitoring of external trade flows.

Main objectives of the CN

The CN reflects the Community's WTO tariff commitments (e.g. the results of the Uruguay Round multilateral trade negotiations (1986 to 1994)), as well as other amendments to the CN and adjustments of duties in accordance with decisions taken by the Council or the Commission.

⁽¹⁾ OJ L 256, 7.9.1987, p. 1.

⁽²⁾ OJ L 316, 16.11.1991, p. 1.

⁽³⁾ OJ L 118, 25.5.1995, p. 10.

⁽⁴⁾ OJ L 302, 19.10.1992, p. 1.

⁽⁵⁾ OJ L 253, 11.10.1993, p. 1.

It incorporates, as appropriate, WCO recommendations and various Community policy requirements.

In order to meet the requirements of the external and internal trade statistics of the Community and the needs for statistical data, the CN includes subdivisions to the HS nomenclature. Such subdivisions are maintained, created or deleted to meet the requirements of users of the statistical data collected, established and disseminated by reference to the CN.

For statistical purposes, the drafting and maintenance of correlation tables between the CN and other goods' nomenclatures is an important task.

Objectives and principles with regard to the code of conduct

The main objective of the code of conduct is to eliminate unwarranted growth of the CN and to reduce the size of that nomenclature. The process should lead to a modernisation of the CN, taking into consideration technological or commercial developments.

Application of the code of conduct should ensure a better discipline in the management of the CN.

It constitutes an instrument for transparency with regard to the parties interested in the CN and contributes to ensuring objectivity in the Commission's decision-making, after having obtained the Committee's opinion.

In applying the 'code of conduct', the diversity of the interests involved, the needs for simplification and for modernisation of the CN, and the difficulties inherent in its management should be respected by requiring an overall vision of its aims and the close cooperation of the parties concerned.

A maximum threshold for the number of CN codes cannot be fixed arbitrarily. Instead, a certain degree of flexibility should be exercised, within the spirit of legislative simplification, in order to take account of the divergent needs of the parties concerned with the CN, mainly the Commission, the Member States and European Federations.

International aspects

Within the framework of the WCO the Commission shall take into account the principles of stability, modernisation and simplification when updating the HS nomenclature.

Commission services involved in international trade negotiations should take into account, as far as possible, the objective of simplifying and facilitating the use of the CN, e.g. by promoting tariff concessions facilitating the merger of CN subheadings.

Whenever the customs duty difference is marginal, and tariff concessions are subject to a reduction over time pursuant to international trade agreements, modernisation of the CN should be envisaged under certain conditions, and in particular those provided for in Article 9(2) of Regulation (EEC) No 2658/87.

Other customs nomenclatures

The principles established by this code of conduct should apply, where appropriate, to the management of other customs nomenclatures such as TARIC.

CODE OF CONDUCT

1. DEFINITIONS

1.1. In this notice the following definitions and abbreviations apply:

Committee:	Customs Code Committee, Tariff and Statistical Nomenclature Section
European Federations:	Federations at European level acting in their capacity as representatives of the economic operators using the CN and as representatives for providers and users of trade statistics based on the CN
Interested parties:	Directorate-General Taxation and Customs Union and Eurostat as Directorates-General for the Commission responsible for the management of the CN the Committee Commission services presenting requests to amend the CN for Community policy reasons Member States administrations European Federations

EC:	European Community
CN:	Combined Nomenclature
HS:	Harmonised System
HS 4:	HS four digit headings
HS 6:	HS six digit subheadings
WCO:	World Customs Organisation
WTO:	World Trade Organisation

2. SCOPE

- 2.1. This code of conduct for the management of the CN (e.g. with regard to the process of maintaining, creating and deleting CN subheadings to the HS nomenclature) seeks to facilitate the management of the CN subheadings to the HS nomenclature reproduced in Annex I to Regulation (EEC) No 2658/87.
- 2.2. In the preparation of the yearly draft Commission decision concerning the modification of the CN, the Commission's services will follow the principles recalled by this code, and will proceed within the framework of the procedures and time schedule provided for in this code. It gives guidance to all interested parties who wish to make a request for modification, creation or deletion of any CN subheading, on how to act in order to ensure that their request will be taken into consideration.
- 2.3. It applies to any request for modification, creation or deletion of any CN subheadings.

3. PRINCIPLES

3.1. **Content**

3.1.1. The CN subheadings to the HS nomenclature should reflect:

- (a) the EC's international commitments (for example WTO tariff concessions and WCO recommendations),
- (b) various EC policy requirements expressed by the competent Commission departments (where the needs are not met elsewhere),
- (c) legitimate needs of a Community nature for specific sectors expressed by Member States and by European Federations.

3.2. **Modernisation**

- 3.2.1. The modernisation of the CN will involve creation or deletion of CN subheadings, changes to the CN subheading structure or modifications of descriptions, in particular in accordance with Article 9(1) of Regulation (EEC) No 2658/87.
- 3.2.2. In modernising the CN, due account shall be taken of nomenclatures related to the CN (e.g. Prodcod).

3.3. **The nomenclature**

- 3.3.1. When amending the nomenclature structure of the CN, the code number allocated to a CN subheading should be maintained, where the coverage of the CN subheading remains the same or the change in coverage is a minor one.
- 3.3.2. A CN subheading cannot be deleted unless it has been in force for at least two calendar years.

- 3.3.3. Descriptions in the CN should be clear, precise and concise, and if necessary accompanied by legal notes.
- 3.3.4. The products to be covered by a CN subheading should be clearly identifiable or recognisable on the basis of objective and measurable criteria.
- 3.3.5. The descriptions in the CN should observe the parallelism between the different Community language versions of the CN and coherence in the terminology used.
- 3.3.6. The tariff annexes to the CN should normally be used only for products which are the subject of specific WTO tariff measures and for which the creation of CN subheadings is not deemed necessary.
- 3.3.7. 'TARIC subheadings for statistical purposes' shall reflect the needs of the Community. Such subheadings shall enter into force on the first day of a month, apply on a monthly basis for at least one year and be subject to the normal review cycle for CN codes.

3.4. **Statistical criteria for the maintenance or creation of CN subheadings**

- 3.4.1. Eurostat shall consider the definition of statistical thresholds to assist in the process of determining whether a CN subheading should be deleted, maintained or created.
- 3.4.2. Eurostat shall inform other Commission services and Member States of such statistical thresholds.
- 3.4.3. Eurostat will establish periodically a list of CN subheadings where the trade volume is below the statistical threshold for submission to other Commission services and the Committee.

3.5. **Other criteria for the maintenance or creation of CN subheadings**

- 3.5.1. CN subheadings which are no longer needed for statistical or other reasons shall be deleted whenever they are subjected to the same customs duties.
- 3.5.2. A CN subheading may be created or maintained even though the volume of trade is below the statistical threshold in question, provided that it is supported by the Commission services or by the Member States representing a qualified majority.

4. PROCEDURE

4.1. **Submission of requests**

- 4.1.1. Requests to amend the CN may be formulated by interested parties as defined above.
- 4.1.2. Other concerned parties which are not referred to above should present requests via the appropriate European Federation or via the administration of the Member State where they are established.
- 4.1.3. Requests to amend the CN shall be submitted to the Commission for examination, for the attention of the responsible service:
 - requests of statistical nature shall be addressed for the attention of Eurostat,
 - other requests than those of a statistical nature shall be for the attention of DG Taxation and Customs Union ⁽¹⁾.
- 4.1.4. With a view to examining proposals to amend the CN to enter into force on 1 January, requests for such proposed amendments should be submitted at the latest on 30 April of the year preceding its entry into force.

⁽¹⁾ All requests concerning amendments to the HS nomenclature shall be submitted to the Commission for the attention of DG Taxation and Customs Union. Those requests will be examined in collaboration with Eurostat and the various interested parties.

4.2. Presentational requirements

4.2.1. A request for amendment to the CN should contain the following information:

- (a) a statement of the reasons for the request,
- (b) an indication of the envisaged CN subheadings by reference to the HS 4 or HS 6 level,
- (c) details of the volume of trade, expressed in euro or in statistical units with regard to the products for which new CN subheadings are being requested or for which the deletion or the merger of CN subheadings is proposed, including forecasts of developments in trade,
- (d) details of the type of product in question, supported if necessary by drawings, sketches, photographs, illustrations, samples, as well as details of the text of the international or national standards.

4.2.2. Any proposal to amend the CN, submitted by the Commission to the Committee for examination and an opinion, should contain the following information:

- (a) identification of the origin of the proposal (Commission, Member State, European Federation or other);
- (b) reasons for the proposal;
- (c) details of the proposed new structure at HS 4 or HS 6 level compared with the existing structure, including, if necessary, duty rates and supplementary units;
- (d) comments by the Commission departments.

4.2.3. Proposals should also, where appropriate, contain the following information:

- (a) statistical trade data on the CN subheadings concerned, both current and if possible covering the three previous years, together with forecasts of future trade development (e.g. for the next two years);
- (b) reference(s) to the previous Commission documents on the same or similar questions;
- (c) Annexes with technical documentation.

4.3. Treatment of a request by the Committee

4.3.1. The Commission will inform the Committee of requests received to amend the CN.

4.3.2. The Commission will inform parties having requested an amendment to the CN of progress made on their proposals.

4.3.3. Proposals to amend the CN, supported by Member States representing a qualified majority and endorsed by the relevant Commission services, shall be incorporated in the draft regulation.

4.3.4. The draft regulation updating the CN shall be submitted to the Committee, in accordance with Article 10 of Regulation (EEC) No 2658/87, for its opinion at a meeting to be held, normally in June and at the latest on 30 September of the year preceding its entry into force.

4.3.5. If necessary, the Commission will establish working parties, chaired by the Commission and including representatives of Member States and of European Federations.

4.3.6. Recommendations to amend the CN resulting from the activities of a working party should be submitted to the Committee for consideration.

4.4. Commission procedure

4.4.1. The Commission shall adopt the regulation updating the CN, in accordance with Article 12 of Regulation (EEC) No 2658/87, with a view to facilitating and ensuring its timely dissemination, in particular to the providers of statistical data, for publication in the *Official Journal of the European Communities* at the latest latest by 31 October and subsequent dissemination in electronic format, whenever possible, soon thereafter.